

Comforts of Matrimony;

Exemplified in the
Memorable Case and Trial,

Lately had

Upon an ACTION brought by
Theo—s C**ibb**r against — **Slape**, Esq;
for Criminal Conversation with the Plain-
tiff's Wife.

WHEREIN

A true and impartial ACCOUNT is given
of the Occasion which first began the Ac-
quaintance between Mr. C**ibb**-r's Wife and the
Defendant; how they proceeded in their
Amour; Mr. C**ibb**-r's taking his Wife from
him in the Country; his bringing her to
Town; her Escape from him; and Lastly,
The TRIAL in the Court of King's Bench,
with the Evidence that was given on both
Sides.

*Nil Helene peccat, nil Hic committit Adulter,
Quod Tu, quod faceret quilibet, ille facit:
Cogis Adulterium dando Tempusque Locumque,
Quo nisi Consilio est usa Puella tuo?
— Helenen Ego Crimine solvo.* OVID.

The Sixth EDITION.

L O N D O N

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THE
Contents of Manuscript
W. Musgrave!



Epistle Dedicatory.

To all the Unmarried Esquires in
GREAT BRITAIN.

Gentlemen,

IT is with the greatest Concern imaginable, that I see so many of you engaged in false Pursuits; that you, who should be the Patrons and Protectors of Virtue and Innocence, should be almost the only Persons from whom Virtue and Innocence have any Thing to fear; that You, whom Providence seems design'd to have invested with Power and Ability to maintain the Honour of Families, and preserve Peace, Unity, and Tranquillity among People of inferior Rank, should employ yourselves in disturbing the Harmony and good Understanding that should exist in private Communities, and exert all your Faculties and Talents to interrupt, molest, and ruin that Love and Unity of the Married State: These, I say, are such Proceedings that I cannot account for from Reason or Equity; and are so directly contrary to the Laws both of God and Man, and condemned by all Nations, and all Sects, Parties, and Religions that ever yet were in the World, that I am really surprized, that any Man of Sense, or who has the least Pretence to Virtue, Honour, or Religion, can indulge himself in such criminal Liberties. Give

Epistle Dedicatory.

Give me Leave, *Gentlemen*, to expostulate the Matter with you. No doubt the greatest Part of you expect to be, once in your Lives, happy in the nuptial State. I will suppose, that each of you shall chuse a Lady, accomplished with all the Perfections of her Sex; and that she is, in every Respect, such an one from whom you may justly hope all the Happiness that the most charming Woman can give a Man in a conjugal Life. Let us also suppose, that some intimate Friend should endeavour to corrupt the Virtue and Allegiance of your Wife, supplant you in her Affections, and stain the Honour of your Bed; how would you behave in this Case? Would you not execute the severest Vengeance on the vile Traitor? Would you not complain aloud of the Injustice? And can you imagine, that Nature has not given to other Men, the same Passions, the same Desire of Happiness, the same Resentments of Injuries and Insults received, as you find rising in your own Breasts?

But I will urge this Matter no farther; but leave you to the Practice of that Golden Rule, *Do unto all Men, as you would be done unto.*

I am, Gentlemen,

Your most obedient, humble Servant,

FRANCIS TRUELOVE.

THE
C A S E
BETWEEN

Theophilus C. b b - r, Comedian,
And his W I F E,

Impartially stated,

THOUGH no Crime is productive of more Mischief to Mankind than *Adultery*, yet so much hath it been lately practised by our Superiors, and placed in so fair a Light, that Mankind begin to look upon it as almost Venial; such is the Prevalence of Fashion, and so fond are the Inferior Rank of Men to imitate the Great Ones in their Vices and Follies, that, let but any one distinguish'd Personage be greatly bad, and appear at the Head of any particular Vice, the servile Herd immediately ape him, and strait the Crime becomes Epidemical and Universal. How cautious then ought every Man of Fortune to be, of giving into any known Sin, or losing all Sense or

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Shame,

Shame, to continue publickly professing the most enormous Vices; it immediately becomes a Plea for the less thinking, yet equally vicious Part of Mankind. The young Tradesman, who wastes his Patrimony and Substance, to maintain some extravagant Mistress, makes no Secret of it, but publickly glories in being a Keeper, because *My Lord Such a-one*, his Customer, does the same. There's never a *Fille de Joye* in the Town, if you accuse her of her indiscreet Amours; but has an Answer patt: That *truly she don't think it is worse in her, than in a Woman of Quality*: And I dare say, there is not a Rake in Town, but would think it meritorious to cuckold any honest quiet Man in the city, because it is fashionable elsewhere.

There have been numerous Instances within these few Years of Persons being sued for Criminal Conversation: One Lady yielded to the Embraces of her Steward, who, being sued, it hath almost proved his Ruin. Another worthy Gentleman, after living several Years in the utmost Harmony with his Spouse, had her torn from his Embraces, and publickly proved in open Court as lascivious as the most common Prostitute, in giving up her Affections to a young, gay, raking Nobleman. These, and many more, have contributed to render this Vice common: and
Vice,

Vice, when it once becomes common, soon grows familiar; insomuch, that all horrid Ideas of the Crime vanish, and we no longer regard it in that odious View in which we ought: We no longer shun it as a Fiend, but embrace it as an Angel: Add to this, the fatal Consequences of its being *recommended* (as I may say) by Persons in Power. There are at some Times *National Vices*, as well as *National Diseases*; and the Body Politick, like the Human Body, ever suffers most from the chief Parts being infected.

Adultery is, of all Crimes, most prejudicial to Society, and the most repugnant to Morality, and even common Honesty; and how much soever our *Smarts* and *Wits* may laugh at and despise this Doctrine, the Men of *real Sense* will always think it just. The learned *Grotius* defines *Adultery* to be a Crime of that Magnitude, that, by it, the Sacred Union design'd by Matrimony is *dissolv'd*, the chaste and lawful Bed *defil'd*, the strictest Social Ties *broke through*, the Husband *robb'd* of the Rights he has to the Person of his Wife, Fidelity, pledg'd in the most solemn Manner, *forfeited*, and the most flagrant Wickedness committed; so that consequently this Sin is compos'd of many more, and has for its Concomitants, *Perfidy*, *Perjury*, *Theft* and *Lust*. This is it charged with,

even in its most favourable Appearances; even when one of the Parties concern'd should be single; so that, of Course, when both are marry'd, those Crimes are doubled.

But what must the World imagine, if to go further yet, there should be a Monster amongst Mankind, who could submit to be the Cause of his own Shame? And even by *consenting* to his Wife's Prostitution, at once break through all the Ties of *Religion*, Honour and Honesty; the most unpolish'd, unciviliz'd Barbarian, or remote *Indian*, would scarce believe there could be such a Man. 'Tis true, Things of this Nature are frequent here, in this polite and well-bred Age, that we look upon that without Surprise, which our Ancestors would have detested with Abhorrence.

The *Spaniard*, or *Italian*, stabs his Wife for barely looking at a handsome Fellow. A *good-natur'd Englishman* receives a Bag of Gold, puts 'em to Bed, kisses, bids them a *Good Night*, and then walks quietly off; comforting himself, that he is not the *only One*, and that People of higher Life than he, have put up with the same: Like School-Boys, who, in their Master's Absence, get their *Overseer* to join their Party, and then flatter themselves with this trite Saying, *Monitore ludente, Nos tuto ludamus.*

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The late remarkable Hearing in the Cause between Mr. T. C——r, a Comedian, and a young Gentleman of Fortune, would have evinced the Truth of what I have before observed, and have been of Use in deterring others from running into the like Snare; and not only that, as Mrs. C——r and he likewise depend upon the Publick for Favour and Support, it would in some Measure have pointed out who was the injur'd Person, and who best deserv'd that Favour for the Future: But for some Reasons not known, the Publication of the Trial has been hitherto delay'd.

Mrs. C——r, as an Actress, hath been very well received by the Town; I cannot answer how far the late unhappy Accident may affect her, but am persuaded, if the Audience were once convinced she is injured, she might again appear in the Light of an excellent Actress, and give us the same agreeable Entertainment as before, in the Characters she was wont to represent. And sure no one could see her in *feigned Grief* in the Part of *Amanda*, in *Love's Last Shift*, but must pity her, for the Similitude it bears to the Cause of her *real* Sorrow: For which Reason, induc'd by the Hopes of seeing her once more on the Stage, and further urg'd

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on by the long Acquaintance I have had with her Family, I have endeavour'd, as briefly as possible, to review the State of her Case for some Time past, and by impartially enquiring into it, to submit it to the Publick, who is to blame, Her Husband, or She; and *Whether she has not been most sensibly injur'd, by being forced to seek her own Ruin, and give up her Reputation and Honour, at the Instigation of a M A N, who, of all others, ought to have been the first to have defended it?*

Mrs. C——r, when Miss A——e, having an agreeable Person, and a pretty Voice for Singing, and being help'd by the Instructions of her Brother, who was bred up to Musick, she soon made a great Proficiency in that Science; so far, that Mr. Lampe engaged her to sing in the *English Opera* of *Amelia*, and, at her first Appearance, agreeably surpriz'd the Audience, in performing much better than any that they expected to see there. Her engaging Air and Affability, join'd to the Sweetness of her Singing, of course, gain'd her many Admirers, to whom she behaved with the utmost Good-nature, yet without granting them any Liberties. The censorious World indeed, piqu'd that One so agreeable should be virtuous, could not refrain from Scandal, and, as is usual in those Cases, had

had among themselves disposed of her Honour to several. One amongst the rest being a certain Noble Peer.

Some time after, the *English* Opera's ceas'd, and (the then) Miss *A——e*, being mightily caress'd by all Judges of Musick, induced the Masters of the Play-houses to strive which should first engage her as a Singer, she having then no Thoughts of commencing an Actress, and *C. C. Esq;* had partly agreed with her to go to the Theatre-Royal in *Dru-ry-Lane*: But he soon after sold out, and several Quarrels and Disputes arising between the Patentees and Players, best Part of the Latter retired to the Little Theatre in the *Haymarket*. Miss *A——e* accordingly having an Invitation, and the Offer of very advantageous Terms, join'd that Company: She was at that Time particularly famed for a Song in the Opera of *Rosamond*, which she often sung between the Acts of the Plays; Mr. *C.* being one of the Chiefs, in that Undertaking, had here first an Opportunity of conversing with her: Arts and Flames, and all the Artillery of Love, at that Instant seiz'd his Heart: She just then (as had been said of a former Actress) was of a *Person just rising to the Agreeable*, and had all the *Paraphernalia* of the Stage. A Person so susceptible of Love as Mr. *C.* could not long see such
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an agreeable Object, without feeling the most tender Emotion; nor would the *Ardour* of his Affection suffer him to be long without declaring it: Nor could He (*who was every Way so qualified to inspire that Passion in a Female Breast*) long sigh in vain. A-while, indeed, she withstood his Addresses; but by the Perswasions of her Family, who judged that such a Match would be for their Interest, join'd with the most passionate Assurance from him, that if she would not consent to make Him *the Happiest of Mortals*, that Moment should certainly be his last; She at length consented, and at the Time affixed, She being of the *Romish Church*, they were married by a Priest. All Parties were well pleased except the *Laur--t*, who did not approve of it, as he thought *his Son* might reasonably expect a *Woman* with a *Fortune*, and it was very well known she had *None*: However that was dispens'd with; and we are now to behold the new-married Pair in all the Splendor and Gaity imaginable, their Equipage continually running between their Town-House and Country-Seat: Nor could they, so great was their Fondness, keep it within the Bounds usually practis'd by other married Couples; their fond Endearments would frequently break in upon their serious Conversation; and their Entertainments at Table were often *larded* with the most passionate Expressions

pressions of Love: Thus did they set out in in Matrimony, as if they would shew the World a Pattern of mutual Tenderneſs and Nuptial Happineſs.

Some time after this, Mr. C. found Means to agree with the Gentleman who had then lately purchas'd the *Patents*, both for *Himſelf*, and his Wife, as a Singer: Nay, ſo far did his *Generoſity* and *Goodneſs* extend to the Family which he had *honour'd* thus by marrying into, that He procur'd Employments in the Playhouſe for the Whole, conſiſting of the Father, Mother, and two Sons.

Mrs. C. by ſome Accident or other, having impair'd her Voice as a Singer, and the *Laur--t* being by this Time reconciled to them, occaſion'd by the Fondneſs they ſhew'd to each other, and which he never expected, (as the World had been *malicious* enough to report and imagine, that he had not been *altogether* ſo kind to his firſt Spouſe as they thought ſhe deſerv'd) He perſwaded her to turn her Talents towards ſpeaking on the Stage, which, upon Trial, he declared, ſurpaſſed any that he had ever heard ſpeak ſo young: Upon this, being encourag'd and inſtructed by ſo *Great* a Man as the *Poet-Laureat* of *Great Britain*, ſhe ventur'd upon the Character of *Zara*, in a Tragedy wrote
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by the celebrated *Aaron Hill*, Esq; taken from the *French One of Voltaire*. Her Reception in Acting was equal to what she met with before in Singing, and she soon became the *Favourite* of the Audience, and might justly be stil'd, *The Delight of the Men*, and *the Envy of the Women*: The News-Papers were daily fill'd with *Verses* inscrib'd to her, and Encomiums on her Acting. Her Husband's Fondness, far from diminishing, at this Success, seem'd to increase, as did likewise her Income; for, I think, at her first going into the House, she had for one Season 100 £. which, after her being so caress'd by the Town, was (as I am inform'd) immediately augmented to double the Sum.

When Men think themselves in the full Splendor of their Happiness, how often doth some Cloud of Misfortunes intervene, and overcast it all? For, from this Success, and seeming comfortable Life, arose the Disquiets that have since happened; and thus far we must do Justice to Mr. C. that till this Time no Couple, in all Appearance, ever liv'd more happy: Though the censorious Part of the World say, that they had often Bickerings and private Quarrels before this Time. Those who favour her, say, it was his Constancy to her, began to grow troublesome to him, and not able to confine himself to her.

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he frequented Women of lewd Fame, and even some that were quite Common, and by that Means *she received an Injury*; which, notwithstanding she had the Temper to conceal, in hopes to reclaim him by Generosity. Others again affirm, on his Side, that such a Report is entirely groundless, and that she, flush'd with Success, grew more haughty and over-bearing to him than she was wont, from which little Family-Feuds would often arise, and soon blow over again. However this was, he shewed himself determined, at all Events, to support her in the Favour of the Town as an Actress; and an Affair happened very opportunely, which gave him an Opening to display all his Talents for that Purpose; I mean the Dispute between her and another celebrated Actress, which of them should perform the Part of *Polly* in the *Beggars Opera*; which Dispute was so well managed on both Sides, and so well known to every Body who frequents Plays, that it is needless to say any Thing of it here, and I shall only observe, that Mr. C. used uncommon Diligence, and all the Art he was Master of, that his Wife might gain his Point: He not only made Use of his *Natural Rhetorick* and engaging *Eloquence* in the House, to perswade the Audience to favour her in the Attempt, but likewise publish'd a *long Folio* Epistle to Mrs. Cl—e, in

the *Daily Advertiser*, in order to dissuade her from accepting it; but finding all his Designs prove ineffectual, he was content to let her continue Acting in other Parts: However, from this Contest we may date the Era of their Unhappiness; for upon this Dispute the Audience naturally divided into Parties: Several who liked Mrs. C-bb-r's Performance, offered their Service to assist her in her Pretensions, amongst whom was the *Gentleman* against whom Mr. C. hath since brought his Action for Criminal Conversation: He seemed to espouse her Cause more ardently than the rest, and offered to engage several of his Friends in her Behalf. This was the first Introduction to their Acquaintance, and which produced such an Intimacy, as hath since been prejudicial to them all.

Mr. C. was pleas'd that a Gentleman of Fashion and Fortune had so generously condescended, not only to favour Mrs. C. in her Profession, but even to honour them with his Acquaintance; he received it with the utmost Acknowledgments; frequent Visits were paid and received on both Sides, add to this, the frequent Opportunities Mr. S. had of seeing and conversing with her behind the Scenes at the Playhouse; the Husband so far from being uneasy at this, rather esteemed

esteemed it an Honour done to him. Whatever different Views each Patty might have at that Time, is impossible to determine: That Mr. S. had a Design of obtaining her as a Mistress, the Event hath fully proved: Whether Mr. C. had a Design of sacrificing his Interest, must likewise be determined from that only; unless the World will give Credit to what she hath said to her Acquaintance in her Defence, *viz.* That she never look'd on Mr. S. any otherwise than as a common Friend to them both, nor had any Design of any Criminal Conversation, till her Husband having basely given her up, led her himself to Mr. S's Apartment, and would there have left them together; which when she opposed, and resented such Treatment, declaring she never would consent to any such Thing, She says, He drew out a Pistol, and with most bitter Imprecations, declared he would shoot her that Instant if she did not consent; upon which she did. If this be true, nothing can be too much to suffer for such a Crime; if not, she wrongs him highly in giving Countenance to such a Report.

That Mr. C. received a considerable Sum of Money from Mr. S. is certain; but whether upon that Account, no One can take upon him to determine. The Circumstances
were

were these, Mr. C. finding the additional Sum of 200*l. per Annum* (together with a considerable Sum which it was reasonable to expect his Wife might clear every Season for her Benefit-Play) join'd to his own Income, which was very considerable, began, like too many who find Affluence come on, to live in a Manner even beyond the Income he had, or what it would indeed allow; and by keeping an Equipage, and appearing in the politest Manner, he exceeded his Salary, and even contracted very large Debts: His Creditors grew very pressing, insomuch, that to avoid the Misery of a Goal, he took a Resolution of withdrawing somewhere a-while, till his Friends could make his Affairs here easy, by gaining Time or otherwise: Accordingly he went to *France*, and during his Residence there, received several Letters from his Wife, in all which she express'd the highest Sense of Gratitude which she had of Mr. S.'s Kindness to her in his Absence, and what a very good Friend he was to her; in Return of which Mr. C. answered her, That he was very glad to hear she had found a Person so kind to her, and desired, by all Means, that she would *cherish so good a Friend.*

But immediately after, either reflecting on the Baseness of her Husband, or having entertain'd a thorough Affection for Mr. S. she

wrote

wrote him another Letter, wherein, among other Things, she desires him to give over all Thoughts of her, *For that Mr. S. would not share her Love with any Person breathing, not even with him, her Husband.* — Alarm'd at this, as not caring to lose her entirely, and considering further, what a Loss her Income would be to him, imagining very reasonably, that if she left him, she would likewise quit the Stage, he hasted to *England* with all possible Speed; where, when he arrived, he was informed she had left his House, and was gone into the Country with Mr. S. and further, (what he had never heard before) that for some Time past, she had a private Lodging taken by her Maid, who was privy to the Intrigue, where Mr. S. and she used to meet and sup. and stay till One, Two, or Three o'Clock in the Morning, and then each depart Home. He needed no further Proof to convince him, that her Affections were entirely alienated from him, notwithstanding which he was determin'd to have her Home, at all Events; and having got Intimation that they were at a Place call'd *Birnbam*, he prepared a Coach and Four, One Saddle Horse, and three Men to accompany him, and set out the next Morning: They arrived at *Birnbam* about Four or Five in the Afternoon, and came so suddenly upon them, that they were no Way appriz'd of
their

their Coming. He sent one of his Men in, to desire to speak with Mrs. C---r, who coming out of the Parlour met her Husband; he seized hold of her Arm, and told her she must go Home with him: She was quite in an Undress; and Mr. S. hearing a little Sort of a Disturbance, came out in an Undress likewise, in his Night Gown and Slippers, who seeing Mr. C. he began to abuse him, by calling him Names, &c. notwithstanding which, he got his Wife into the Coach, and gave Ordes to drive on. Mr. S. following them to the Coach Door, and swore he would follow them directly, which accordingly he did; and as he came within Sight, Mr. C. quitted the Coach, and taking his Pistols with him mounted the Horse: Mr. S. coming up to him; threatned him severely what he would do to him; to which M. C. reply'd *If you are a Man, draw your Pistol, and try if you can shoot me through the Head, as you have shot me through the Heart already*; which he not thinking proper to do, they continued their Journey to *Slough*, where, it being too late to proceed to *London*, Mr. C. and his Wife lay that Night; and they were but just got to the Inn, but Mr. S. followed, and insisted upon staying there all Night likewise, which they could not refuse, it being a Publick Inn. The next Morning Mr. C. came on to *London*

don with his Wife, and Mr. S. gave him no more Disturbance for that Time.

So soon as they arriv'd in *London*, Mr. C. convey'd her to his own House, where he lock'd her in a Room, and being oblig'd to attend at the Playhouse, he set a Guard over her to prevent her making her Escape: But her two Brothers having Intelligence where she was, and being encourag'd by Mr. S. as is imagin'd, they went with a Resolution to release her from her Confinement, which they effected in the following Manner: When they had got a sufficient *Posse*, as they thought, they, by making a Noise, gave her to understand who was below; upon which she, some how, open'd a little Closet Window, and getting her Head out, cried *Murder* several Times: At that they broke open the Door, and forced her away from her Keepers in Triumph; and taking her down into the Street, she desired that no Person would follow her, but suffer her to go away by herself, which was granted, and she accordingly went.

Mr. C. enraged at such Treatment from the Brothers, took out a Warrant, upon which they were committed to *Bridewell*, but were admitted to Bail soon after: She, in order to secure her own Quiet, as well as

to be reveng'd on Him, immediately went and swore the Peace against him, by which he was bound over to his *Good Behaviour*, and obliged to molest her no more.

Things were in this Situation, when, in order to make his Misfortunes lie as *light* as possible on his Back ; and hoping to make Amends for the Loss he had sustained, he brought an Action in his Majesty's Court of *King's Bench* against Mr. S. for having Criminal Conversation with his Wife Mrs. C. wherein he laid his Damage at Two Thousand Pounds ; and as some Account of the Evidence given on both Sides, will afford a greater Light into the Affair, and every Impartial Person be able to form a better Judgment from thence, who most deserves their Favour or their Scorn, I shall here subjoin a Succinct, tho' not Full Account thereof.

An Account of the TRIAL.

THE Cause came on to a Hearing on the 5th of *December* last, in the Sittings after *Michaelmas* Term, before the Lord Chief Justice of the *King's Bench*, and was try'd by a Special Jury, of which — *Farewell*, Esq; was Foreman.

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The Council for the Plaintiff having opened the Cause, proceeded to enlarge upon the ill Consequences that would arise, if Crimes of this Nature were to go unpunish'd. That the Crime of Adultery, or depriving a Man of his Wife, entirely struck at the Root of all Society, as it robb'd a Man, not only of his Ease and Peace of Mind, but in Effect of his Fortune, or whatever Substance, by his Industry and Toil, he might have acquir'd, by tainting his *Family* with a spurious Issue: That the Plaintiff in this Respect, had a Right to make Use of the Methods which the Law allow'd him; for that he was descended from an Ancestor, not only ennobled by his Family, but even in himself, he being no less a Man than *William of Wickham*; and that the Plaintiff lineally descended from him, and the Race preserved yet entire; but that by such Intercourse as the Defendant was charged with having had with the Plaintiff's Wife, a spurious Branch might arise and debauch the Progeny. They further set forth, that the Plaintiff's Wife was but of mean Extraction; that at the Time of her Marriage she had little or no Fortune, nor any in Expectancy or Reversion; that he being in good Reputation on the Stage, had already a Competency sufficient to maintain her, and that consequently she must depend

on him for Support: And further, that it was in his Power to promote her on the Stage, pursuant to which Power he had made Use of all his Interest to promote her, and she had, by his Means and Instructions, attain'd to be a considerable Actress, and received a Salary accordingly: That he had always behaved in the tenderest and most Husband-like Manner, and that she in return had performed all the Duties of a Wife; till some Time in *April* last, being forced by his unhappy Circumstances to go to *France*, to avoid being arrested, it was the Means of his discovering this Intrigue, with which the Defendant is charged: That she had been very much caress'd by Persons of Distinction who sought her Company; and that he believed it was owing to her, that his Fortune was so much impair'd; for that for some Time, before he went to *France*, she would frequently stay out till late, under Pretence of paying Visits; and that when he enquired (as every Husband has a Right of doing) what Engagements she could have that were a sufficient Excuse for her staying from her Family 'till Three or Four o'Clock in the Morning; he never could get any satisfactory Answer, but that she had been in no ill Company; which he urged no farther, relying on her Conduct, and putting an entire Confidence therein. That the Defendant

dant got acquainted with the Plaintiff's Wife,
 by promising to contribute all that in him
 lay, to support her in her Desire of playing
 a Part in the *Beggar's Opera*: That from
 thence an Intimacy succeeded, and the Defen-
 dant invited the Plaintiff and his Wife to an
 Entertainment at his House; that the Plain-
 tiff endeavoured to return the Civility in the
 best Manner he was able, and from that
 Time they frequently visited each other:
 That under the specious View of Friendship,
 the Defendant made Use of all his Art to se-
 seduce and alienate the Affections of the
 Plaintiff's Wife from him, which he accord-
 ingly effected: For on, or about the 5th of
December, 1737, the Defendant employ'd one
Anne Hobson, who was Maid to Mrs. C. to
 take a Lodging for them, where they might
 meet securely. Accordingly, the said *Anne*
Hobson applied to one Mrs. Hayes, in *Blue-*
Cross-Street near the *Haymarket*, and agreed
 for Two Rooms; telling them, she was a
Hoop-petticoat Maker, and should have no
 Company come after her, but one Gentle-
 man and a Lady, who were her Relations;
 which Gentleman and Lady were the Defen-
 dant and Mrs. C. Accordingly, in a Day
 or two after she had agreed for the Lodgings,
 she came into 'em, and the next Day was
 visited by the Defendant and Mrs. C. who
 repeated those Visits very often: That after
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some Time, Mr. *Hayes* suspecting something more than ordinary in this Affair, had the Curiosity to shut himself in a Closet, where he had an Opportunity of Hearing and Seeing all that pass'd; which was a Scene of so immodest a Nature, that the Council must refer the Jury to his Evidence when produced. That a Gentleman of Mrs. *Hayes*'s Acquaintance coming to visit her, happen'd to see Mrs. *Hobson*, who constantly withdrew whenever the Defendant and Mrs. *C.* were together; that the Gentleman inform'd Mrs. *Hayes* that he knew this *Anne Hobson*, and that she was Mrs. *C.*'s Maid; upon which, Mrs. *Hayes* finding out who the Defendant was, the next Time they came, desired Mrs. *Hobson* to provide herself with another Lodging; which they did, imagining this would discover them else. That to enjoy each others Company with the greater Freedom, and to pursue their Amour uninterrupted, the Defendant provided a Suit of Boy's Cloaths for the Plaintiff's Wife, by which Means she might be with him as a young Gentleman, without any Suspicion. That the Plaintiff being obliged to go to *France*, as aforesaid, they then enjoy'd their full Swing of Pleasure, imagining it would be impossible for him ever to return: But he had not been long in *France*, e'er he received such a Letter from her, as convinced him of this
Fact,

Fact, and obliged him to hasten to *England*. The Defendant had convey'd her about forty Miles from Town to a Place call'd *Birnam*; the Plaintiff follow'd thither, and coming upon them unexpected, found them both in an Undress, He in his Night-Gown and Slippers, and She in a loose Gown: Upon which he exerted the Authority of an Husband; yet with all the Tenderneſs poſſible, aſſuring her, that ſhe muſt go Home with him, but that nothing ſhould hurt her. That accordingly he put her into the Coach, and brought her to *London*; notwithstanding the Defendant follow'd them Part of the Way, and otherwiſe endeavour'd to prevent them.

That after the Plaintiff had brought her to *London*, he thought no Place ſo proper to put her in as his own Houſe; which he accordingly did, and ordered ſome Perſons to guard her, ſhe having declared ſhe would not ſtay with him.

That the Buſineſs of the Stage requiring his Preſence that Evening, whiſt he attended *that*, her two Brothers came, with ſeveral others arm'd with Staffs, Clubs and other Weapons, at the Requeſt and by Command of the Defendant, and took her away.

That

That by this Means the Plaintiff is deprived, not only of his Wife, together with his Happiness here, and Peace of Mind, but is hurt in his Fortune by Loss of her Income, which amounted to near 300 *l. per Annum*.

Then concluded, that as they had a Jury of *English Gentlemen*, who very well know the Consequences of such Crimes going unpunished; and that if the Facts were fully proved, (which they did not doubt) that no Recompence could retaliate his Loss; that the Law had allow'd but one Way, *i. e.* by a Pecuniary Mulct; and that they did not doubt but upon hearing the Evidence, they would give Damages accordingly.

They then proceeded to call the Witnesses. And first *Mrs. Brett* was call'd, to prove the Marriage between the Plaintiff and his Wife; but she not being there, and the Council on the Defendant's Side seeming to wave it, they call'd—*Colley Cibber*, Esq; who being sworn, depos'd to the Purport following:

That as to their Marriage, he really believed they were married, as much as that he ever was himself; but that he was not at it, it being entirely against his Consent.

That

That after their Marriage he frequently visited them, and, to all Appearance, they liv'd happily, much happier than he could expect: That she being a Singer, he would often perswade her to leave off all Thoughts of that, there being so many good Ones, that not to be the *Best*, would be Nothing; and therefore advis'd her to apply her Thoughts to the Stage as an Actress; pursuant to which, he offer'd to instruct her himself; and that, on her making a Tryal, he declared, that in all the Time he had belong'd to the Stage, he never knew any one so young, set out in such a promising Manner: That after this he spent a great deal of Time in instructing her, and took a Pleasure in it, she took it so readily. That as to the Affair between the Defendant and her, he was in *France* when it happened, and knew nothing of it, but by Report, which not being Evidence, declin'd saying more.

But being ask'd, in what Manner the Plaintiff behav'd to her in her Maintainance, he reply'd, He was kind to her even to a *Profusion* in making her Presents of Rings, Jewels, &c. which he has often told him of, thinking them too much for the Plaintiff's Circumstances to afford.

Mr. *Fleetwood* being call'd, to know what she might deserve as an Actress, said, that

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the first Year of her coming to his House, he gave her 100 *l.* that the next Year, and ever since, he gave her 200 *l.* and a Benefit; that she did offer to engage with him this Season, but required as much as any one Person in the Theatre, which he could not comply with. As to the Affair in Dispute, he knew nothing of it.

Mr. *Rich* said, he knew Mr. *C.* but was never in Company with him and his Wife together.

Then Mrs. *Hayes* was call'd, who depos'd, That on that Day Twelve-month, *viz.* the 5th of *December*, Mrs. *Anne Hobson* came to her House in *Blue-Cross-Street*, in order to take ready furnish'd Lodgings, telling her, that she was a *Hoop petticoat Maker*, and that she should be very little Trouble to her; for she should have no Body come to her but one Gentleman and a Lady, who were her Relations; that she agreed with her for two Rooms ready furnish'd at 7 *s.* 6 *d.* per Week, and that Mrs. *Hobson* came in a Day or two after in a Coach, with two Boxes, and lay there that Night; that the next Day, a Gentlewoman, who since proved to be Mrs. *C.* came in a Chair, and shortly after, a Gentleman, who since proved to be Mr. *S.* went up to Mrs. *Hobson*; that they staid
and

and supp'd there, and this Deponent went to Bed, and after some time, she wak'd and heard Mrs. *Hobson* let them both out, and fasten the Door: That they, the Defendant and Mrs. C. frequently met there afterwards, almost every Day, and that whenever they came, Mrs. *Hobson* either went out on some trifling Pretence or other, or came and sat with her (Mrs. *Hayes* :) That once as she was sitting with her, a Gentleman came in to speak with Mrs. *Hayes*, and knowing M^s. *Hobson*, ask'd her how she did? and entered into Discourse with her. After Mrs. *Hobson* was gone, the Deponent ask'd him, if he knew her? Upon which he rep'y'd, Yes, she was Mrs. C's Maid; upon which Mrs. *Hayes* recollecting that she had seen the Gentlewoman who came there on the Stage, and that she believed it to be Mrs. C. began to suspect something extraordinary, and desired her Husband to watch where they went, and find out the Affair, which he did, and she thereupon desired Mrs. *Hobson* to provide herself elsewhere with a Lodging.

Mr. — *Bedell* appeared, and confirmed that Part of Mrs. *Hayes*'s Evidence, relating to his knowing Mrs. *Hobson*, &c.

They then proceeded to prove the Criminal Conversation, and to that Purpose called

Mr. *Hayes*, who confirm'd his Wife's Evidence, as to *Hobson's* taking the Rooms, and the frequent Visits of the Defendant and Mrs. C. there ; that he thought he had some Knowledge of Mr. S. by having seen him at the Tennis-Court ; and that his Wife being very uneasy at their Meeting there, desired him to find out, if possible, who they were ; which this Deponent farther saith, he did, after the following Manner.

One Night, when the Defendant and Mrs. C. had staid pretty late with Mrs. *Hobson*, they went separately away in two Chairs, one of which this Deponent, *Hayes*, follow'd, and saw it stop with Mr. S. in *St. James's Place*, where he was soon inform'd by the Chairman, who he was ; and, in the mean Time, sent a Watchman to follow the other, who saw it stop in *W-ld Court* in *W-ld-Street*, and upon Enquiry found it was Mrs. C. - - r. This urg'd the Deponent on to further Discoveries ; and accordingly, having a Closet which open'd to his Stair-Head, parted from the Room, where they used to meet, by only a thin Wainscot Partition, he bored several Holes through it, and took an Opportunity of concealing himself therein, and another Person, against they should come : That soon after they were so concealed, the Defendant came in, and not finding Mrs. C. there,

there, was in a great Passion, and muttered several Things to himself, which they could not understand: That after he had been alone about half an Hour, Mrs. C. came in, and seeing him in that Passion, endeavour'd to mollify him, by telling him, she had been detained at the Playhouse at a Rehearsal; but he not seeming to believe her, told her, that was not the Case, You are great with Mr. Fl——d. *No, upon my Soul, said she, I an't; and to convince you, I will take my Brother out of the House directly.* Upon this he was a little pacified, and did sit down, and she did sit down in his Lap, and with her Hand did pull out his Pr - - v - te Me - b - r, and then he did pull up her Coats, and put it between her Th - - s, and after that she did sit some Time, and riggle about very much.

Then being ask'd what followed, he replied: It was about Two o'Clock, and after they dined upon a Fowl; that he and his Companion staid in the Closet from One till about Six o'Clock; that they could see and hear every Thing that pass'd in the Room; and that after the Defendant and Mrs. C. had dined, several Endearments pass'd, and the Defendant got up from his Seat, and let down the Bed, which was a turn-up Bedstead; that she having loos'd her Dress, laid herself down
on

on the Bed, and exposed her Neck, Breasts, and her Limbs quite naked; that the Defendant likewise did the same, and laid himself upon her; that he put his p - v - te M - mb - r into hers, and continued upon her for the Space of a Quarter of an Hour. Then being told by the Court, he had said sufficient, he withdrew.

The *Council for the Plaintiff* then call'd one Mr. —, a *Gardiner at Kensington*, to prove, that they had a Lodging at his House, who depos'd,

That the Plaintiff and his Wife took a Lodging in his House last Spring; that Mr. S. was with them, and lay there; but that he never saw any *Criminal Conversation*: That the Rooms were lock'd up when they went away; and that the Plaintiff came some time after, and wanted them to be broke open for some of his Wife's Cloaths; that he knowing the Plaintiff, did consent to it, and Mr. C. took with him several Things.

Then, being cross-examined by the Council on the other Side, he depos'd,

That tho' Mr. C. and his Wife took the Lodging, yet the Defendant *paid* for it; that the Defendant likewise paid all the Bills that came

came in: That the Plaintiff, Mr. C. had taken a Lodging a Mile and half from thence, at a Place call'd *Blue Green*; that he used to Breakfast, Dine, and Sup with the Defendant and his Wife at *Kensington*, and at Night return alone to *Blue Green* to Bed; that one Night he was belated, and staid there, and that then a Bed was made up in the Parlour, but for whom he could not tell.

Being ask'd, Whether he went every Night, but that One, to *Blue Green*, he replied, No; that those Nights the Defendant was in Town, the Plaintiff staid at his House at *Kensington*; but those Nights Mr. S. was at *Kensington*, the Plaintiff went to *Blue Green*.

Then they call'd *Mary Calcott* and her Sister, who prov'd that they had several times seen the Defendant and Mrs. C. at *Birnam*, walking out together as Man and Wife, and had frequently heard 'em use the Expressions of *My Dear*, and *My Love*, to each other.

The Serjeant who accompanied the Plaintiff to fetch Mrs. C. from *Birnam*, said, that when they arrived there, he was sent in first to ask for Mrs. C. that he saw her and the Defendant sitting in an Undress; that he told her, she must go to her Husband, who waited with a Coach to take her Home; that they
accord-

accordingly took her, and the Defendant soon after pursued them ; that when they came to the Inn, the Defendant and this Witness had some Words; upon which the Defendant went into his Room in the Inn, and took up a Pistol, and fir'd it off, as this Witness believed, at him. But being ask'd, Whether he could undertake to swear that it was at him ? he answered No ; for that it was fir'd up in the Air.

Another Evidence was call'd, to prove the taking her away from *Wild Court*.

The Plaintiff's Council having gone thro' this and the rest of the Evidence, the Defendants enter'd upon the Defence.

They reply'd, That had they known the Plaintiff would have brought them such a Deraile of his Ancestors, from *William of Wickham*, they would have searched the Heralds-Office to have known, Whether it was so or not ; but that they thought that was a Point no ways material to be argued then: But that if the Plaintiff was descended from *William of Wickham*, they desir'd his Council to recommend to their Client, that admirable Motto of his Ancestors, *viz. Manners makes a Man*.

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They then proceeded to the Point in Hand, and did not say, but the criminal Conversation had been fairly proved; but insisted, that it was by the Connivance of the Plaintiff: Nay, that he had, in effect, received a Sum of Money for the same, the Defendant having a Bond of his now in his Custody, not yet due; which, though not expressly mentioning the Agreement to any such Conversation, which would have been a Precedent scarce ever known; yet the Circumstances considered, it will necessarily occur to every one, with what View this Money was borrowed, especially as the Defendant must very well know, that the Plaintiff was wholly unable to pay off any such Sum: And what would be the Consequence, if Persons in that State of Life, as the Plaintiff and his Wife are, should be suffered thus, by a Collusion between themselves, to draw in a young Gentleman of Fortune? Why, She being an agreeable Woman, might ruin half the young Noblemen in Town. The Law, without Doubt, allows considerable Damages in the Case of *Adultery*, where the Husband is sensibly injured and innocent; but where the Husband is accessory to his own Shame, and with his own Consent gives up his Wife, which, in the present Case, we don't doubt to prove, and as one of his ev

Evidences has already done, by very strong, Circumstances ; though the *Criminal Conversation* should be ever so strongly proved to your Opinion, and, upon that Account, you should be inclined to give the Plaintiff Damages, as the Law directs, I believe you will be of Opinion, That there is no Coin current in *England*, *small enough* for such Damages.

They then call'd *Anne Hobson*, who deposed,

That she had lived with Mrs. C——r, as a Servant, for a considerable Time : She acknowledg'd the taking the Lodging for the Defendant and Mrs. C——r, and that she believed the Plaintiff was Privy and Consenting to such *Criminal Conversation* : For that He had been present several Times, when little Familiarities had pass'd between Her and the Defendant : Nay, further, that she was present one Night, when the Plaintiff lay in one Chamber, and a Door open into the next, where the Defendant lay ; that the Plaintiff was then in Bed, and his Wife, Mrs. C——r, came out of the Defendant's Room half undress'd, and said, *My Dear, I am come for my Pillow ; Good Night ; I am going again ;* that he kiss'd her, and bid her, *Good Night* and this Witness saw her go to Bed to the Defendant.

Several

Several other Witnesses were call'd, to prove his conversing with his Wife, even since he knew of this, and Letters produced, wherein he desired her (when he was in *France*) to be sure to *cherish* so good a Friend as Mr. S. and follow his *Directions* entirely.

The Lord Chief Justice then summ'd up the Evidence on both Sides, and directed the Jury to bring in their Verdict, which, after a short Stay, they did, and found for the Plaintiff TEN POUNDS Damages.

During the Course of this Action, she hath cited him into the *Spiritual Court* for *Incontinence*, hoping (as supposed) to obtain a Divorce *a Mensâ & Thoro*; which, if she does, 'tis the Desire of all who are fond of good Representations on the Stage, that she may again appear; and it is hop'd, every one on the Side of Good-nature, will be her Friend, (since her Misfortunes have not been occasioned by herself alone) and, in Kindness to her Sex, join with honest *Mat. Prior*, in saying,

*When poor, weak Women go astray,
Their Stars are more in fault than they.*

F I N I S.

Several of our friends were called to prove
the connection with his wife, even those who
knew of this, and I cannot remember
in his defense but I was not in the
room but he was to give a further
and later a further

[illegible]

